IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

CRL.A.No. 93 of 2002()

CC.935/1996 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI
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APPELLANT: COMPLAINANT IN CC.NO.935/1996

MR.C.K.JOSEPH, PROPRIETOR, PRIMIER ADVERTISERS, AISWARYA BUILDINGS,VALANJAMBALAM, KOCHI-16.

BY ADV. SRI.A.P.SUBHASH

RESPONDENTS: ACCUSED IN CC.NO.935/1996
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1. **MR.O.A.SEBASTIAN, 1/38, PARAVOOR ROAD, NEAR U.C.COLLEGE,ALUA.**

2. **STATE OF KERALA,REP.BY PUBLIC PROSECUTOR HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.A.NO.93 of 2002

Dated , 18th July, 2007.

JUDGMENT

Appellant is the complainant in C.C.No.935/96, the proceedings initiated under section 138 of the Negotiable Instruments Act in which the accused was acquitted under section 256(1) Cr.P.C. It is submitted that when the case was called, both the complainant and the counsel were outside the court hall and due to the heavy rush and noise at the entrance they could not hear the calling and the complainant could not make his appearance.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the complainant to further pursue the matter and dispose of the case on merits. The appellant would take out fresh summons to the accused.

The appellant shall appear before the court below on 8-8-2007.

(K.R.UDAYABHANU)
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.A.NO. 93 OF 2002

JUDGMENT

18-7-2007.